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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DONNA CORBELLO,

Plaintiff

v.

THOMAS GAETANO DEVITO et al.,

Defendants.

Case No. 2:08-cv-867-RCJ-PAL

**NEW DEFENDANTS'  
MOTION TO SEAL EXHIBIT 4 IN  
SUPPORT OF THEIR CONSOLIDATED  
OPPOSITION TO PLAINTIFF'S FIVE  
MOTIONS TO COMPEL**

Pursuant to the *Stipulated Protective Order (Doc. 94)* and the Court's *Order Regarding Sealing Requirements (Doc. 95)*, New Defendants Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice, Des McAnuff, DSHT, Inc., Dodger Theatricals, Ltd. and JB Viva Vegas request leave to file certain documents under seal as Exhibit 4 to their consolidated Opposition to plaintiff's five (5) motions to compel (Docs. 356, 360, 362, 371, and 375, collectively "Motions to Compel").

**POINTS & AUTHORITIES**

Pursuant to the *Stipulated Protective Order (Doc. 94)* and the Court's *Order Regarding Sealing Requirements (Doc. 95)*, New Defendants seek to file the following documents under seal as Exhibit 4 to their consolidated Opposition to plaintiff's Motions to Compel, which are Confidential:

- 1) JB-0025200 to JB-0025209, February 2009 Monthly Compilation Statement of JB Chicago Zephyr L.P., produced to Plaintiff in July 2009; and
- 2) JB-0025450 to JB-0025454, February 2009 Monthly Compilation Statement of Jersey Boys Broadway Limited Partnership, produced to Plaintiff in July 2009.

As mentioned, the proposed sealed documents are being filed in connection with non-dispositive discovery motions. "The public policies that support the right of access to dispositive motions, and related materials, do not apply with equal force to non-dispositive materials." *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179 (9<sup>th</sup> Cir. 2006)(*quoting Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9<sup>th</sup> Cir. 2002)). Indeed, the Ninth Circuit has "carved out an exception to the presumption of access to judicial records ... for a sealed discovery document [attached] to a non-dispositive motion, such that the usual presumption of the public's right of access is rebutted." *Kamakana*, 447 F.3d at 1179 (*internal quotations and citations omitted*).

Because the proposed documents are being filed in connection with non-dispositive motions, they fall within the exception carved out by the Ninth Circuit and leave to file them under seal should be granted. Moreover, there is good cause to seal the proposed financial documents because they are being filed pursuant to the *Order Regarding Sealing Requirements (Doc. 95)*. "[W]hen a district court grants a protective order to seal documents during discovery, it already has determined that 'good cause' exists to protect this information from being disclosed to the public by balancing the needs for discovery against the need for confidentiality." *Kamakana*, 447 F.3d at 1179-1180 (*quoting Philips*, 307 F.3d at 1213).



**Certificate of Service**

I certify that on February 18, 2011, I electronically filed the foregoing **NEW DEFENDANTS' MOTION TO SEAL EXHIBIT 4 IN SUPPORT OF THEIR CONSOLIDATED OPPOSITION TO PLAINTIFF'S FIVE MOTIONS TO COMPEL** and this certificate of service with the clerk of the Court using the ECF system which will send notification of such filing to the following:

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